

REMARKS

Claims 1-47 were presented for examination. Claims 1, 3-13, 15, 17-34, 36, 38, 40 and 41 are pending. Claims 1, 3-13, 15 and 17-33 are rejected. Reconsideration is respectfully requested.

Telephone Interview with Examiner Cross

In a call between the Examiner and the undersigned on December 9, 2004, agreement was reached that Johnson et al. lacks a sensor located within a sealed container for measuring the absorption spectrum. Agreement was reached that applicant could present this present amendment, which the Examiner would enter, and a new search would then be performed, followed by the mailing to applicant of a new non-final office action.

The 35 U.S.C. § 103 Rejections

Claims 1, 3-5, 8-13, 15 and 17-31 are rejected as being unpatentable over Johnson et al. in view of Brace. The rejection is respectfully traversed.

Johnson et al. lacks a sensor located within a sealed container for measuring the absorption spectrum. Figures 3 and 8 of Brace show means, located external to the bottle, for transmitting and receiving/detecting a signal. Thus, Brace also lacks the sensor located within a sealed container.

**In the present application, claim 1 recites “at least one sensor is operatively located within a sealed wine container, wherein said at least one sensor directly contacts wine or wine vapor within said sealed wine container” and “wherein said at least one sensor element comprises means for measuring said absorption spectrum of the wine.” The rejection of claim 1 should be withdrawn at least because it recites a sensor located within a sealed container. The rejection of claims 3-5, 8-13, 15 and 17-24 should be withdrawn at least because they depend from claim 1.**

**In the present application, claim 25 recites “at least one sensor operatively located within a sealed wine container, wherein said at least one sensor directly contacts wine or wine vapor within said sealed wine container.” The rejection of claim 25 should be withdrawn at least because it recites a sensor located within a sealed container; however, to further distinguish claim 25 from the prior art, the applicants have amended claim 25 to include the limitation: “wherein said at least one sensor element comprises means for measuring said absorption spectrum of the wine.” Therefore the rejection should be withdrawn.**

**Claims 6, 7, 24, 32 and 33 are rejected as being unpatentable over Johnson et al. and Brace, and further in view of Reber et al. The rejection is respectfully traversed.**

**Claims 6, 7 and 24 depend from claim 1, which should be allowable as discussed above. Claims 32 and 33 depend from claim 25, which should be allowable as discussed above. Therefore the rejection should be withdrawn.**

**Allowable Subject Matter**

**Claims 34, 36, 38, 40 and 41 are allowed.**

**Conclusions**

**It is submitted that this application is in condition for allowance based on claims 1, 3-13, 15, 17-34, 36, 38, 40, 41, 48 and 49 in view of the amendments thereto and the foregoing comments.**

**If any impediments remain to prompt allowance of the case, please contact the undersigned at 808-875-0012.**

**Respectfully submitted,**



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**Dated: January 10, 2005**